

Magistrate Judge Michelle L. Peterson

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff

v.

KALVINN JAY GARCIA

Defendant.

CASE NO. MJ21-005

COMPLAINT for VIOLATION

18 U.S.C. § 844(i)

BEFORE, Michelle L. Peterson, United States Magistrate Judge, U. S. Courthouse,
Seattle, Washington.

The undersigned complainant being duly sworn states:

COUNT ONE

(ARSON)

On or about February 24, 2020, at Seattle, within the Western District of
Washington, KALVINN JAY GARCIA did maliciously damage and destroy, and attempt
to damage and destroy, by means of fire, a building, namely Queer/Bar, located at 1518
11th Avenue, Seattle, that was used in interstate and foreign commerce and in activity
affecting interstate and foreign commerce.

All in violation of Title 18, United States Code, Section 844(i).

1 This complaint is to be presented by reliable electronic means pursuant to Federal
2 Rules of Criminal Procedure 4.1 and 41(d)(3).

3 The undersigned complainant, Josh Anderson, being duly sworn, further deposes
4 and states as follows:

5 **INTRODUCTION**

6 1. I, Special Agent Josh Anderson, am a duly sworn member of the Federal
7 Bureau of Investigation (FBI). I am currently assigned to the FBI Field Office located in
8 Seattle, Washington. I have been employed by the FBI since June 2010. I began my
9 employment with the FBI in the Seattle Field Office as an Investigative Specialist for 6.5
10 years and have been a Special Agent since January 2017. In total, I have over ten years of
11 federal law enforcement experience with the FBI.

12 2. I am a graduate of Seattle University where I received a Bachelor of Arts in
13 Business Administration with a minor in International Economic Development. I
14 completed an eight week Investigative Specialist Training in Washington DC and a
15 twenty-one week Special Agent Basic Training at Quantico, Virginia.

16 3. I am responsible for investigations involving civil rights, hate crimes and
17 color of law offenses, and have received training on investigative techniques for these
18 violations, including a one-week specialized course in Boston, Massachusetts. I have
19 actively participated in investigations including but not limited to: crimes against persons,
20 crimes against property, hate speech, cyber stalking, malicious harassment, physical
21 assault, sexual assault and color of law. Over the course of these investigations, I have
22 participated in the execution of search warrants and the seizure of evidence indicating
23 criminal violations. As a law enforcement officer, I have testified under oath before a
24 Grand Jury, affirmed to applications of search warrants and have obtained electronic
25 monitoring orders.

26 4. The facts set forth in this Affidavit are based on my own personal
27 knowledge; information obtained from other individuals during my participation in this
28 investigation, including other law enforcement officers; review of documents and records

1 related to this investigation; communications with others who have personal knowledge
 2 of the events and circumstances described herein; and information gained through my
 3 training and experience. Because this Affidavit is submitted for the limited purpose of
 4 establishing probable cause in support of a criminal complaint, it does not set forth every
 5 fact that I, or others, have learned during this investigation.

6 5. Specifically in this investigation, I have become familiar with the elements
 7 of the federal arson statute at Title 18, United States Code, Section 844(i), and have
 8 consulted with Detective Scott Kawahara with the Seattle Police Department. Detective
 9 Kawahara is assigned to the Arson Unit and handled this arson investigation. He has 36
 10 years of law enforcement experience and 12 years as a bomb and arson detective.
 11 Currently he is one of six detectives in the Arson Unit. He has received specialized
 12 trainings for bomb and arson investigations, specifically, a one-week specialized course
 13 with the FBI, and a two-week specialized course at the National Fire Academy.

14 **SUMMARY OF PROBABLE CAUSE**

15 A. *Arson at Queer/Bar*

16 6. Queer/Bar is a bar business with an event space located at 1518 11th
 17 Avenue in Seattle, Washington. At approximately 9:00 p.m. on February 24, 2020, a man
 18 later identified as KALVINN JAY GARCIA ignited the contents of a large recycle
 19 dumpster adjacent to the rear side of the Queer/Bar business. Flames shot upwards
 20 against the business's brick wall towards the second floor of Queer/Bar where there were
 21 at least 50 people in attendance for an event. After setting the fire, GARCIA hurriedly
 22 walked away northbound from the dumpster as the contents of the dumpster become fully
 23 engulfed in flames, approximately three to four feet high, above the dumpster. While
 24 walking away, GARCIA looked back at the fire several times and then turned eastbound
 25 onto East Pine Street. He was located by a Seattle Police Department (SPD) officer a
 26 short distance from Queer/Bar, and placed under arrest.

27 7. Queer/Bar shares an alleyway with other businesses and the SPD East
 28

1 Precinct. GARCIA's actions were captured on video-footage from cameras operated by
2 SPD and Queer/Bar. Based on the video footage and interviews of witnesses, I have
3 learned the following. The recycle dumpster that was set on fire was stacked with
4 cardboard, and a grease trap and grease barrel was next to the dumpster. Within a few
5 feet of the recycle dumpster was the back exit door for Queer/Bar. The video footage
6 showed that approximately 8:55 p.m., GARCIA walked southbound in the alleyway
7 towards the location of the dumpster at Queer/Bar. He appeared to be smoking a cigarette
8 and looked upwards at the second floor event space of Queer/Bar where music was
9 playing loudly, people were singing, and there were at least 50 people in attendance for a
10 party event. Also in the first floor space of Queer/Bar were numerous other customers.
11 The business was brightly lit with pink uplighting. After looking up at the second floor
12 event space, GARCIA walked over to the recycle dumpster, he appeared to be
13 manipulating something inside the top of the dumpster, and the contents of the dumpster
14 suddenly ignited with flames shooting upwards.

15 8. Within one minute of the setting of the fire, SPD officers were dispatched.
16 One of the officers received a description of the man who set the fire at Queer/Bar. While
17 conducting an area check, the officer saw GARCIA walking southbound in the 1400
18 block of Broadway, and noted that GARCIA matched the suspect description. The officer
19 made eye contact with GARCIA, who then pulled his hood over his head, and started
20 walking northbound on Broadway, toward Pike Street. GARCIA quickened his pace, ran
21 up two flights of stairs of a parking lot, and then was stopped by the officer. Another
22 officer arrived and confirmed that GARCIA was the same man depicted in the video
23 footage who had set the fire.

24 9. GARCIA was placed under arrest. He was advised of his *Miranda*
25 rights and stated he understood his rights. During a search incident to arrest, officers
26 located a pocket lighter on GARCIA. He was transported to the SPD East Precinct and
27 interviewed by Detective Scott Kawahara. GARCIA stated he had just been kicked out
28 of the place he was staying and was homeless. He expressed that he does not like and

1 blames the “fucking queers and fucking fairies” for his situation. GARCIA described
2 them as “disgusting” and doesn’t believe their lifestyle should be flaunted in his face.
3 GARCIA stated he got angry and wanted to take his frustration out on something, and
4 started the fire instead of taking it out on “a bunch of queers.” GARCIA stated he thought
5 he started the fire with matches but didn’t sound very sure. During the interview,
6 GARCIA expressed, “I am going to take these fucking queers.” GARCIA denied being
7 impaired, and had not taken any drugs, was not on any medication, and had not had any
8 alcohol. GARCIA stated he thought starting the fire was a “pretty stupid thing to do.”

9 10. Officers who responded to the fire used several portable dry
10 chemical extinguishers to attempt to put out the fire. Officers noted that the flames
11 reached three to four feet above the five foot tall dumpster, nearly reaching the windows
12 of the second floor event space. There were recyclable items inside the dumpster,
13 consisting mostly of cardboard, that were burning intensely and could not be fully
14 contained by the dry chemical extinguishers. The Seattle Fire Department had to use a
15 water hose to completely douse the fire.

16 11. Queer/Bar sustained damage to the exterior brick of the building
17 due to the fire. The recycling dumpster is directly next to the brick building and the
18 flames of the fire torched part of the brick structure. Repairs to the damaged exterior
19 brick structure and cleaning and removal of debris and other burnt items had to be
20 performed as a result of the fire.

21 B. *QUEER/BAR*


22 12. Queer/Bar is a bar business that serves liquor and food to its customers,
23 and hosts numerous events and entertainers throughout the year. Queer/Bar is located in a
24 block of buildings that house several businesses, and Queer/Bar leases the building space
25 which consists of a first floor that had, at the time of the fire, regular daily operating
26 hours, along with a second floor area for events by appointment. On the evening of
27 February 24, 2020, Queer/Bar was entering its busiest hours of operation, and the fire
28 caused by GARCIA resulted in all of its customers and event attendees to evacuate the

1 business. Queer/Bar typically closes around 2:00 a.m., and due to the fire, had to close
2 early. It experienced a noticeable drop in business in the days following the fire, and two
3 events were cancelled.

4 13. Queer/Bar is involved in interstate and foreign commerce and in activities
5 affecting interstate and foreign commerce.¹ In addition to serving alcohol and food, it
6 hosts nearly 100 events per year and regularly advertises their events on social media
7 platforms, including Instagram and Facebook as well as the Queer/Bar's website, and
8 attracts customers from all over the country. For example, "Drag Race" is an event where
9 entertainers travel from out-of-state for the event, and the advertisement of "Drag Race"
10 online draws attendees from within and out-of-state. Queer/Bar has a strong reliance on
11 interstate commerce, and obtains its liquor from distributors who utilize vendors within
12 Washington and out-of-state. For its food service, over fifty-percent of Queer/Bar's food
13 is sourced from farmers in Oregon and Idaho.

14 CONCLUSION

15 Based on the foregoing, I respectfully submit that there is probable cause to
16 believe that KALVINN JAY GARCIA committed the offense of Arson, in violation of
17 Title 18, United States Code, Section 844(i).

18
19 
20 JOSH ANDERSON, Complainant
21 Special Agent, FBI
22

23
24 ¹ Restaurants and bars have the requisite relationship to interstate commerce. See *United States v. Joyner*, 201 F.3d
25 61, 78-79 (2d Cir. 2000) (citing *Russell v. United States*, 471 U.S. 858 (1985)). Businesses that operate as a
26 nightclub and bar also meet the interstate commerce requirement of the 844(i) statute. *United States v. Troy*, 618
27 F.3d 27 (1st Cir. 2010); see also, *United States v. Serang*, 156 F.3d 910, 913 (9th Cir. 1998) (restaurant is "clearly
28 commercial property" in an 844(i) offense when it purchased liquor from out-of-state and leased equipment from
out-of-state company); *United States v. DiSanto*, 86 F.3d 1238 (1st Cir. 1996) (844(i) jurisdictional element met
when arson occurred at restaurant that received food supplies for its operation that had traveled in interstate
commerce and was supplied with natural gas that traveled in interstate commerce); *United States v. Aman*, 2012 WL
1632465 (4th Cir. 2012) (a restaurant is an overtly commercial establishment and its operation in a leased space is an
activity that affects interstate commerce).

1 Based on the Complaint and Affidavit sworn to before me, and subscribed in my
2 presence, the Court hereby finds that there is probable cause to believe the Defendant(s)
3 committed the offense set forth in the Complaint.

4 Dated this 7th day of January 2021.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


MICHELLE L. PETERSON
United States Magistrate Judge